

**D. HOW LIFE ESTATES AFFECT ELIGIBILITY FOR MEDICAL PROGRAMS****WAC 388-561-0300 Life estates.**

- (1) The department determines how life estates affect eligibility for medical programs.
- (2) A life estate is an excluded resource when either of the following conditions apply:
  - (a) It is property other than the home, which is essential to self-support or part of an approved plan for self-support; or
  - (b) It cannot be sold due to refusal of joint life estate owner(s) to sell.
- (3) Remaining interests of excluded resources in subsection (2) may be subject to transfer of asset penalties under WAC 388-513-1365.
- (4) Only the client's proportionate interest in the life estate is considered when there is more than one owner of the life estate.
- (5) A client or a client's spouse, who transfers legal ownership of a property to create a life estate, may be subject to transfer-of-resource penalties under WAC 388-513-1365.
- (6) When the property of a life estate is transferred for less than fair market value (FMV), the department treats the transfer in one of two ways:
  - (a) For non-institutional medical, the value of the uncompensated portion of the resource is combined with other non-excluded resources, or
  - (b) For institutional medical, a period of ineligibility will be established according to WAC 388-513-1365.

**CLARIFYING INFORMATION**

1. Unless the contract establishing the life estate limits one or more of these rights, the life estate owner has the right:
  - a. Of possession;
  - b. To use the property;
  - c. To sell his/her interest in the life estate; and
  - d. To receive income generated by the life estate

**WORKER RESPONSIBILITIES**

1. To evaluate a life estate, you need to know the:
  - a. Date the property was transferred;
  - b. Name(s) of the legal owner(s) who transferred the property;
  - c. Name(s) of the new legal owner(s) of the property;
  - d. Name(s) of the life estate owner(s) of the property;
  - e. Rights of the life estate owner(s) to the property;
  - f. Current fair market value of the property; and
  - g. Client's age as of the date the last birthday.
2. Determine if the life estate is an excluded resource (WAC 388-561-0300(2)). If not, you need to determine its resource value and if adequate consideration was received for any transactions involving it. Use the life estate owner's current age and the Life Estate Table in Appendix II to determine the life estate factor of the owner. You need to know the fair market value of the property. Then:
  - a. Multiply the current fair market value of the property by the life estate factor found in the table. This is the value of the life estate;

- b. Subtract the value of the life estate from the fair market value of the property.
  - c. This is the value of the asset that was transferred for less than fair market value; and
  - d. If the life estate is jointly owned, determine the client's proportionate share.
3. If the value of the transfer for less than fair market value causes the client's resources to be over the standard, determine a period of ineligibility for LTC cases according to WAC 388-513-1365. For non-LTC cases, deny the application for excess resources.

**EXAMPLE 1**

Diana, a disabled 20-year-old single adult, owns a duplex with a fair market value of \$50,000. This month, she transferred the ownership of the property to her mother retaining a life estate interest in the property, and she is applying for medical benefits (non- LTC). Diana retains the right to live in the property for the rest of her life and has the right to any income generated by renting out the other 1/2 of the duplex.

To determine the value of her life estate, we look at the life estate table and multiply the life estate factor next to Diana's age (.97365) by the \$50,000 value of the property, resulting in a life estate value of \$48,682.50. We subtract this from the total value of the property (\$50,000) and find that she transferred \$1317.50 without adequate consideration. The resource standard for 1 person (SSI related) is \$2,000.00. Since Diana has no other resources, and transferred an amount less than the resource standard, she is still eligible.

\$50,000.00	value of property
X . 97365	life estate factor from table
\$48,682.50	value of life estate
\$50,000.00	property value
- 48,682.50	life estate value
\$ 1,317.50	value of transfer without adequate consideration

**EXAMPLE 2**

Same situation as above, **except** Diana also has \$1,000.00 in a checking account. Now, when we add the value of the transfer of resources without adequate consideration to her other assets ( $\$1,317.50 + \$1,000.00 = \$2,317.50$ ), her resources are over the standard and she is ineligible for assistance this month (the month of the transfer), but you need to consider eligibility for MI. She may want to reapply the first of next month, if MI is not an option.

**EXAMPLE 3 (Long-term care only)**

Same situation as Example 2 EXCEPT that Diana has been placed into a nursing home. Diana has stated she intends to return to her home. She has \$1,000 in a bank account. When we add up the total resources ( $\$1,317.50 + \$1,000.00 = \$2,317.50$ ), she is over the resource standard (\$2,000.00). Given the fact that the excess is less than the private nursing home rate, do not establish a period of ineligibility. Allow her to reduce her excess by applying it to her participation. (Refer to AVAILABLE RESOURCES in the Long-term Care section, Ea-Z Manual).

**EXAMPLE 4 (Long-term Care Only)**

Mike is 85 years old and going into a nursing facility for a while after a stroke. He transfers legal ownership of his farm, valued at \$100,000 to his son Gordon, retaining a life estate interest in the farm so that he can live there for the rest of his life. He has no other resources. To determine if there was a transfer without adequate consideration:

\$100,000	total value of property
X .35359	life estate factor of 85 year old from table
<u>\$ 35,359</u>	value of life estate
\$100,000	total value of property
- 35,359	value of life estate
<u>\$ 64,641</u>	value of transfer without adequate consideration

Mike is not eligible and has a period of ineligibility based on the transfer of a resource for less than fair market value, in the amount of \$35,359. See WAC 388-513-1365.

**APPENDIX I  
LIFE ESTATE AND REMAINDER INTEREST TABLE**

Instructions to use this table.

1. Use the life estate owner's current age to determine the present value of the life estate.
2. The remainder column is used if only the value of the transferred portion of the life estate is needed (for example, someone sells  $\frac{1}{2}$  of their life estate interest to someone else).
3. The information in this table is from POMS SI 01140.120. See also, 26 CFR 20.2031-7 and 49 FR Vol. 49 No. 93/5-11-84.

## Determining Values of Life Estate

Age	Life Estate	Age	Life Estate	Age	Life Estate	Age	Life Estate	Age	Life Estate
0	.97188	22	.97120	44	.89221	66	.66551	87	.32262
1	.98988	23	.96986	45	.88558	67	.65098	88	.30859
2	.99017	24	.96841	46	.87863	68	.63610	89	.29526
3	.99008	25	.96678	47	.87137	69	.62086	90	.28221
4	.98981	26	.96495	48	.86374	70	.60522	91	.26955
5	.98938	27	.96290	49	.85578	71	.58914	92	.25771
6	.98884	28	.96062	50	.84743	72	.57261	93	.24692
7	.98822	29	.95813	51	.83674	73	.55571	94	.23728
8	.98748	30	.95543	52	.82969	74	.53862	95	.22887
9	.98663	31	.95254	53	.82028	75	.52149	96	.22181
10	.98565	32	.94942	54	.81054	76	.50441	97	.21550
11	.98453	33	.94608	55	.80046	77	.48742	98	.21000
12	.98329	34	.94250	56	.79006	78	.47049	99	.20486
13	.98198	35	.93868	57	.77931	79	.45357	100	.19975
14	.98066	36	.93460	58	.76822	80	.43659	101	.19532
15	.97937	37	.93026	59	.75675	81	.41967	102	.19054
16	.97815	38	.92567	60	.74491	82	.40295	103	.18437
17	.97700	39	.92083	61	.73267	83	.38642	104	.17856
18	.97590	40	.91571	62	.72002	84	.36998	105	.16962
19	.97480	41	.91030	63	.70696	85	.35359	106	.15488
20	.97365	42	.90457	64	.69352	86	.33764	107	.13409
21	.97245	43	.89855	65	.67970				